

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARY O. WHEATLEY, et al. : CIVIL ACTION
: :
v. : :
: :
U.S. AIRWAYS, INC., et al. : NO. 07-4946

MEMORANDUM

Fullam, Sr. J.

February 11, 2008

The plaintiff alleges that while on board the defendants' airplane on November 26, 2005, she reached into the pocket on the back of the seat in front of her only to find she had immersed her hand in vomit. She alleges that because of the defendants' negligence in failing to remove the vomit she has a fear of contracting AIDS and hepatitis. Her husband has asserted a claim for loss of consortium.

The defendant airlines have filed a motion to dismiss, which I will grant. Pennsylvania's "tort law is in accord with the majority view, requiring the plaintiff in a fear of AIDS case to show actual exposure to HIV. Additionally, in order to sustain this action we require the existence of a scientifically accepted method of transmission of the virus." Shumosky v. Lutheran Welfare Services of Northeastern Pennsylvania, 784 A.2d 196, 202 (Pa. Super. Ct. 2001). Plaintiff here has not alleged any physical injury, and she has alleged neither actual exposure to HIV or hepatitis nor that touching vomit is a scientifically accepted method of transmission.

An order will enter.